




FARMINGTON POLICE DEPARTMENT

POLICY AND PROCEDURE

	Policy Number: 199-03	Effective Date: 05-09-2016	
	Subject: Polygraph Examinations		
	Approved by:  Steven D. Hebbe, Chief of Police		

PURPOSE:

To provide investigative officers and others within the police department with general knowledge of, guidance, and procedures for the use of polygraph examinations.

POLICY:

The polygraph examination is a valuable investigative tool as used in conjunction with, but not as a substitute for, a thorough investigation. It is the policy of the Farmington Police Department that polygraph examinations may be used to verify, corroborate or refute statements, obtain additional investigative leads, narrow or focus criminal investigations, screen candidates for positions with this or other criminal justice agencies, and assist in the conducting of internal police investigations, among other authorized purposes.

PROCEDURE:

The polygraph is an instrument that records certain physiological changes in a person undergoing questioning in an effort to verify truth or deception. A polygraph simultaneously records at a minimum respiratory, electrodermal, cardiovascular activity and movement.

Requesting Polygraph Examinations:

Investigative officers and supervisors of this agency may request a polygraph examination from the department's authorized polygraph examiner when consistent with state law and agency policy.

Situations in which authorization may be requested and approved include, but may not be limited to, the following:

1. Requests from the District Attorney's Office or City Attorney's Office as part of an agreement with a defense attorney or for other investigative purposes;
2. Requests from investigative officers or supervisors of this agency;
3. Requests from other authorized criminal justice agencies;
4. To confirm or refute an allegation(s) that cannot be verified or disproved by other evidence;

5. As an investigative tool used to assist in the establishing of probable cause to seek a search or arrest warrant;
6. As an element of a background investigation of a candidate for a sworn or civilian position in this agency or another criminal justice agency; or
7. As part of an administrative or criminal internal investigation of an officer or civilian of this agency or another criminal justice agency.

A polygraph examination should not be used to verify a victim's allegation without sufficient grounds for suspecting that the victim has given false or misleading statements.

Requests for polygraph examinations from another law enforcement agency pursuant to an internal investigation must be in writing and must be approved by the Chief of Police or his designee.

Submission to a polygraph examination must be a voluntary action with the exception of employees of this agency formally directed to take an examination as part of an internal investigation. In all other cases, polygraph examinations shall not be administered without the subject's written or tape recorded waiver.

Preparing for Polygraph Examinations:

The investigating officer or supervisor requesting a polygraph examination is responsible for providing the examiner with all pertinent information concerning the investigation prior to the administering of the polygraph examination. This includes, but may not be limited to, the following:

1. A copy of any relevant offense reports and other investigative reports;
2. Information obtained in the investigation that supports the use of the polygraph;
3. Any statements made by the subject, complainants, and witnesses;
4. Background information on the subject to be examined, to include criminal history and possible motivation; and
5. Evidence or information about the crime that is believed to be known and unknown by the subject.

If the subject is hearing impaired or does not speak English, the polygraph examiner may make arrangements for a sign language interpreter or translator as deemed necessary.

Investigative officers or supervisors should not interrogate a subject immediately before he or she is to take a polygraph examination. A polygraph examination can be administered following interrogation as long as a sufficient amount of time has passed as deemed appropriate by the polygraph examiner.

Investigative officers or supervisors should not attempt to explain procedures that will be used in the polygraph examination, but may advise subjects that these will be explained fully by the examiner. Subjects may be advised of the following:

1. The polygraph examination is voluntary, unless otherwise provided by this policy in cases of internal administrative investigations;

2. Results of the polygraph examination are not acceptable in a court of law unless all requirements of New Mexico Evidence Rule 11-707 are met, which includes the requirement that the polygraph examiner has at least five years' experience in administration or interpretation of polygraph examinations or equivalent academic training; and
3. Results of the polygraph examination alone do not provide substantiation for a criminal charge.

Conducting Polygraph Examinations:

Only trained polygraph examiners who have been issued a polygraph examiner's license or provisional license through the Regulation and Licensing Department of the State of New Mexico, in accordance with Rule 92-3 of the New Mexico Polygraph Act, are authorized to administer polygraph examinations.

Prior to conducting the polygraph examination, the polygraph examiner will make such inquiries of the subject's background, health, medical history, use of medications, education, and other relevant information as deemed necessary to determine the subject's suitability for testing. Polygraph examinations will not be conducted on any person whom the examiner reasonably believes to be physically, mentally, or emotionally unsuitable for testing. This may include, but is not limited to, persons who are currently or have been treated for any serious diseases of the heart, lungs or central nervous system; women who are pregnant; or individuals taking certain types of medication that may interfere with test results.

A polygraph examiner will not conduct a polygraph examination upon a subject if it is felt by the examiner for any reason that an unbiased examination cannot be given.

Where appropriate, the examiner shall advise the subject of his or her Miranda rights and explain the voluntary nature of the examination.

An examination shall cease immediately if requested by the subject.

Prior to the test, the examiner shall explain the polygraph procedure to the subject and prepare the subject for the examination.

The examiner shall be responsible for preparing all test questions to be used in the examination, and these questions will be reviewed with the person being tested prior to the administering of the polygraph examination.

The examiner shall independently interpret the chart tracings and render an opinion on findings that includes, but is not limited to, one of the following conclusions:

1. No Deception Indicated;
2. Deception Indicated;
3. Inconclusive.

The polygraph examiner shall determine if second or subsequent polygraph examinations are necessary and appropriate.

Pre-Employment Polygraph Screening Examinations:

Pre-employment polygraph screening should be regarded as a decision-support tool intended to add incremental validity to risk-assessment and risk-management efforts surrounding the evaluation and selection of law enforcement and other public service applicants.

Polygraph testing, and polygraph test results, should not supplant or replace the need for professional expertise and professional judgment. Polygraph testing cannot replace the need for a thorough background investigation, but should be thought of as part of a comprehensive pre employment background investigation.

Polygraph test results should never be used as the sole basis for the selection or rejection of a law enforcement or public service applicant.

The operational objectives of pre-employment polygraph testing include the following:

1. Increased disclosure of additional information that will be of interest to risk adjudicators and hiring professionals in the law enforcement and public service selection process;
2. Deterrence of unsuitable applicants from joining and/or remaining in the applicant pool, by increasing the likelihood that past transgressions and activities will become known to authorities;
3. Detection of applicants who attempt to withhold information that would be of interest to risk adjudicators and hiring authorities in the law enforcement selection process.

Pre-employment polygraph examinations shall be scheduled by authorized members of this agency's training division or members of the City's personnel division according to established agency policy.

Prior to conducting a pre-employment examination, the polygraph examiner shall review all relevant applicant screening reports, personal history statements, pre-investigation questionnaires, and any previous polygraph examination reports prepared by this agency.

Prior to conducting a pre-employment examination, the polygraph examiner will review with the employment candidate a list of questions that may be used in the examination.

Information revealed during the polygraph examination, including information obtained during the pre- and post polygraph interviews, combined with existing, additional, or subsequent background investigation information, may warrant additional polygraph testing of the applicant. Secondary polygraph testing of employment candidates under these circumstances may include carefully crafted questions with greater specificity into singular events or concerns. The decision to use secondary polygraph examinations of employment candidates is made through joint consultation between the polygraph examiner and the Department's risk adjudicators.

Equipment and Record Keeping:

Polygraph instruments used shall be of commercial manufacture and shall have a minimum of four functioning recording channels.

The polygraph examiner is responsible for the maintenance, safe-keeping and integrity of the polygraph instrument and related polygraph equipment.

Instruments shall be maintained and calibrated in accordance with the manufacturer's recommendations.

The polygraph examiner shall provide such summary activity or statistical reports as may be directed by the Chief of Police or his designee.

The polygraph examiner shall maintain records of all polygraph examinations, including polygraph charts, question sheets, reports, data sheets, and other pertinent papers, in accordance with Rule 92-5 of the New Mexico Polygraph Act, for a period of at least two years after the date of the polygraph examination.

Examination Rooms:

Polygraph examinations shall be conducted in a clean, neat environment free of unnecessary auditory and visual distractions that may interfere with the atmosphere of the examination.

Polygraph examiners will dress in a manner consistent with standards of the professional business community. Duty uniforms, badges, and other emblems of authority shall not be worn during the polygraph examination. Service weapons may be worn by the examiner, but should not be openly displayed.